

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 647 OF 2007

RAJESH K. MEHTA . .PETITIONER

V/S

THE STATE OF MAHARASHTRA & ORS. . .RESPONDENTS

MR. K.T.S. TULSI, SR. ADVOCATE WITH MR. MAHESH

JETHMALANI, ADVOCATE, MR. PRANAB KHOT ADVOCATE.

MR. GAREDHARA BHANSALI ADVOCATE I/B HARIANI & CO.

MR. RAJA THAKARE ADVOCATE FOR CBI.

D.P. ADSULE APP FOR STATE.

CORAM: J.H. BHATIA, J.

DATE : 18TH JUNE, 2007.

P.C.

1. Heard Mr.Tulsi, learned Senior Counsel for the Petitioner and Mr. Raja Thakare, learned counsel for the Respondent Nos. 2 and 3.

2. Criminal Case No. 134/CPW/2006 arising out of R.C. No. 11(E)/2004/CBI/BS & FC/MUM is pending before the Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai, for the offence punishable under section 120-B, 420, 467, 468 and 471 of IPC against the petitioner. As the Petitioner is presently carrying on business and is

living in Belgium, his presence could not be

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secured in the criminal case and therefore, the learned Addl. Chief Metropolitan Magistrate on request of the prosecution issued a warrant of arrest by order dated 12/7/2006. By this petition, the Petitioner sought to quash of the said warrant on several grounds and according to him because of certain steps taken by the Respondents he is unable to come to Mumbai and appear before the court.

3. Without going into the technicality and merits of the case, but after going through some documents, now it is admitted position that in view of the said warrant at the behest of the CBI, the extradition proceedings were also taken up before the courts in Belgium. The fax message from Embassy of India dated 19-4-2007 reveals that on the basis of the arrest warrant the Petitioner was actually arrested and extradition proceedings were commenced. After hearing the parties, the Court of Appeal, Belgium, found that the Petitioner has his residence and all interest in Belgium which means that one should not fear that he shall flee from proceedings. After taking into consideration the arguments advanced by both sides, the Court of Appeal directed the Petitioner to be released immediately on the condition that he is not arrested for any other

reason. Admittedly, he has not been arrested in any other case after the said order dated 25th May 2007 and he has been released by the Authorities.

4. Learned senior counsel for the Petitioner makes a statement and gives an undertaking on behalf of the Petitioner that the Petitioner shall appear before the Addl. Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai, in the above referred Criminal Case No. 134/CPW/2006 and seek cancellation/revocation of the arrest warrant. Mr. Raja Thakare, learned counsel for the Respondents also makes a statement that the Respondent shall provide him necessary travel documents so that he may travel from Belgium to Bombay. It appears that in view of the warrant issued in this case the Union of India has revoked his passport causing difficulties in his actual travelling. Admittedly if the warrant of the present case would not be there, there could be no reason or ground for the Union of India to revoke his passport because he is Indian citizen and it appears that for a long time he is carrying on business and living in Belgium with Indian passport. In view of the above circumstances and the undertaking, the Respondent

Nos. 2 and 3 shall make available necessary

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documents to the Petitioner to travel from Belgium to India and after coming to Mumbai, he shall appear before the learned Addl. Chief Metropolitan Magistrate on or before the next date of hearing fixed in the matter. If he moves an application for cancellation/revocation of arrest warrant or for bail, the learned Addl. Chief Metropolitan Magistrate shall after hearing both sides on merits pass appropriate orders as per law. In case the order is passed against him, he shall be given 2 weeks time to approach the Sessions or High Court to challenge the said order. In view of the undertaking given by Mr. Raja Thakare on behalf of Respondent Nos. 2 and 3 the Petitioner shall not be arrested on basis of the said warrant on his arrival in India till his application for cancellation of the arrest warrant or for bail is decided and for further period of 2 weeks in case the application is rejected.

5. In case the applicant succeeds, he may approach the authorities for withdrawal or revocation of his passport as per rules. If the revocation of the passport is withdrawn, the Petitioner shall not travel abroad from India without prior permission of

Addl. Chief Metropolitan Magistrate and without
intimation to the Respondent No. 2.

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6. With aforesaid directions the Writ Petition
stands disposed of.

(J.H. BHATIA, J.)